

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION**

FLAME S.A.,)	
)	
Plaintiff,)	Civil Action No: 2:13-cv-658
)	2:13-cv-704
GLORY WEALTH SHIPPING PTE LTD.)	
)	
Consolidated Plaintiff,)	
vs.)	
)	
INDUSTRIAL CARRIERS, INC.)	
VISTA SHIPPING, INC., and)	
FREIGHT BULK PTE. LTD.,)	
)	
Defendants.)	

**SPECIALY APPEARING DEFENDANT FREIGHT BULK PTE. LTD.’S
MOTION TO STRIKE THE DECLARATION OF
JAMES H. POWER AND TO IMPOSE SANCTIONS**

NOW COMES, specially appearing Defendant Freight Bulk Pte. Ltd. (hereinafter “FBP”), by and through undersigned counsel, subject to its restricted appearance pursuant to Fed. R. Civ. P. Supp. Admir. R. E(8), the pending appeal to the Fourth Circuit Court of Appeals, and its pending dispositive motions to Vacate the Attachments and Dismiss the Amended Complaints. Without conceding jurisdiction or waiving any other issue that is currently before the Court of Appeals or this Court on any other motion, FBP hereby respectfully moves this Court to strike the declaration of James H. Power, Esq. and to impose appropriate sanctions pursuant to the inherent powers of this Court.

On April 9, 2014, approximately one hour before counsel were to appear before Magistrate Judge Leonard for a hearing regarding Flame S.A.’s motions to compel and FBP’s motion for protective order, Glory Wealth Shipping Pte Ltd. (“Glory Wealth”) filed a two page Notice of Joinder to Flame’s Motion to Compel. ECF No. 145. Attached to Glory Wealth’s

Notice was the 17-page declaration of James H. Power, Esq., counsel to Glory Wealth. ECF No. 146. In his declaration, Mr. Power purports to testify about his “experience” with fraud investigations and offers his own “interpretations” of wire transfer records. Mr. Power then accuses FBP (and numerous entities that are not defendants and have no means of contesting Glory Wealth’s accusations) of fraudulently diverting Industrial Carriers Inc.’s (“ICI”) receivables. Notably, Glory Wealth failed to attach a single piece of evidence in support of these accusations. And Glory Wealth has failed to produce any of this purported evidence to FBP.

Mr. Power’s declaration is improper in numerous respects, and is designed to harass FBP and to try this case in the media. First, Mr. Power’s declaration is inadmissible. Mr. Power has no knowledge, training, skill, or education in accounting, forensic accounting, or banking that would enable him to offer the sort of pseudo-expert opinion contained in his declaration. Second, Mr. Power is now both an advocate and a witness for Glory Wealth in this litigation. The Virginia State Bar, New York Bar, and Fourth Circuit are unanimous: an attorney cannot serve as both a witness and an advocate in the same case. Third, Glory Wealth has most likely violated the Gramm-Leach-Bliley Act and a number of other banking privacy laws by making false statements to obtain access to FBP’s banking accounts, and improperly disclosing these financial records in his publicly-filed declaration. Specifically, Glory Wealth represented to multiple financial institutions that FBP was the alter-ego of ICI, the very issue that it bears the burden of proving in this litigation. Fourth, Glory Wealth’s litigation tactics and Mr. Power’s declaration are simply transparent attempts to harass FBP and draw further media attention to this litigation.

FBP respectfully submits that this Court should strike Mr. Power’s declaration and impose appropriate sanctions to deter similar litigation conduct in the future.

Dated: April 18, 2014

Respectfully submitted,

By: /s/ Patrick M. Brogan

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CERTIFICATE OF SERVICE

I hereby certify that on April 18, 2014, I caused the foregoing SPECIALLY APPEARING DEFENDANT FREIGHT BULK PTE. LTD.'s MOTION TO STRIKE THE DECLARATION OF JAMES H. POWER AND TO IMPOSE SANCTIONS to be electronically filed with the Clerk of the Court using the CM/ECF system, which in turn will provide electronic notification of and access to such filing to the counsel of record in this matter who are registered on the CM/ECF system.

Dated: April 18, 2014

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